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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/929,460
Filing Date: August 14, 2001
Appellant(s): KUYKENDALL ET AL.

Quentin G. Cantrell
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 25, 2008 appealing from the Office action mailed July 5, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,138,107	Elgamal	10-2000
5,659,165	Jennings et al.	8-1997

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10, 26-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Elgalal (USPN 6138107).

Re claims 1 and 26: Elgalal teaches a system for performing push-model fund transfers between at least one user and at least one payor, the system comprising: at least one payor interface comprising software operative to permit the at least one payer to provide information identifying a desired fund transfer (col. 6, lines 17-35); a gateway having at least one gateway account, said gateway being operative (col. 6, lines 20-21): to receive said information (col. 6, lines 30-35); to receive incoming funds from the payor via a push-model transfer into said at least one gateway account after receiving said information (col. 6, lines 23-26); to inform the user that the payor has provided an appropriate amount of funds via a push-model transfer if said incoming funds received are of an appropriate amount according to said desired fund transfer (col. 7, lines 57-

60); and to send corresponding outgoing funds to the user after receiving said incoming funds (col. 7, lines 21-32).

Re claims 2 and 27: Elgamal teaches wherein said software is a website (col. 6, lines 17-35).

Re claim 3: Elgamal teaches wherein the at least one user is a plurality of merchants, and each merchant has an associated website (col. 6, lines 17-35).

Re claim 4: Elgamal teaches wherein said gateway comprises a gateway bank, and said gateway account is an element of said gateway bank (col. 6, lines 17-35).

Re claim 5: Elgamal teaches wherein said information comprises an amount of funds to be transferred, the payor, and the user that is to be a payee of said desired fund transfer (col. 7, lines 22-28; col. 8, lines 9-11).

Re claim 6: Elgamal teaches wherein said gateway provides deposit information to the at least one payor sufficiently identifying said gateway account to permit the payor to cause funds to be deposited therein (col. 6, lines 17-35).

Re claim 7: Elgamal teaches wherein the payor must cause funds to be deposited in said gateway account by ordering a financial institution with which the payor has an account to transfer funds into said gateway account (col. 7, lines 12-16).

Re claim 8: Elgamal teaches wherein the payor orders said financial institution with which the payor has an account to transfer funds into said gateway account using an ACH credit to said gateway account (col. 7, lines 12-16).

Re claim 9: Elgamal teaches wherein an amount of said corresponding outgoing funds is determined by the payor and the user, and said appropriate amount of said incoming funds is selected by said gateway based on said amount of said corresponding outgoing funds such that said gateway retains some of said incoming funds (col. 7, lines 10-20).

Re claim 10: See claims 1-9 analyses, supra.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elgamal in view of Jennings et al (USPN 5659165).

Re claims 28-30: Elgamal does not explicitly teach the system wherein said at least one payer interface further comprises a transaction previewer that enables a user to select and input one of the set consisting of a desired amount of currency to be sent and a desired amount of currency to be received, and to then display a complete calculation including each other element of the transaction; wherein the currencies can be of any of a plurality of nationalities, and one element of the transaction that is displayed by the transaction previewer is the exchange rate between a nationality of currency to be sent and a nationality of currency to be received. Jennings teaches payer interface further comprises a transaction previewer that enables a user to select and input one of the set consisting of a desired amount of currency to be sent and a desired amount of currency to be received, and to then display a complete calculation including each other element of the transaction; wherein the currencies can be of any of a plurality of nationalities, and one element of the transaction that is displayed by the transaction previewer is the exchange rate between a nationality of currency to be sent and a nationality of currency to be received (Abstract, Fig. 10). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Elgamal to include these steps. One would have been motivated to do so in order to automatically compute appropriate exchange rate and display them to the user for user's authorization.

(10) Response to Argument

The Examiner summarizes the various points raised by the Appellant and addresses them individually.

A. Rejection of claims 1-10 and 26-28 under 35 U.S.C. § 102(e) as being anticipated by Elgamal.

1. Regarding independent claims 1 (representing claims 1-9), 10 and 26 (representing claims 26-28), Appellant asserts that Elgamal's teaching is directed to "electronic money" – not actual funds. However, Examiner notes that the claimed invention is directed to electronic fund transfer regardless of the nature or type of fund that is being transferred. Applicant asserts that the funds in the instant application are actual funds and not electronic money as taught by Elgamal. Examiner notes that the claims in their present form do not preclude "electronic money".

For these reasons, Appellant's argument is not persuasive. Therefore claims 1, 10 and 26 are rejected under 35 U.S.C. § 102(e) as being anticipated by Elgamal.

B. Rejection of claims 28-30 under 35 U.S.C. § 103(a) as being unpatentable over Elgamal in view of Jennings.

1. The argument is similar to the argument discussed in the U.S.C. 102 (e) rejection above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Olabode Akintola /O.A/
29 September 2007

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